



180 St. Ronan Street, New Haven, CT 06511-2390 (203) 865-0587 FAX (203) 865-4997

Connecticut State Medical Society, American College of Surgeons Connecticut Chapter, American College of Physicians Connecticut Chapter, Connecticut Society of Eye Physicians
Testimony in Support of
House Bill 6622 An Act Concerning The Burden Of Proof In Medical Malpractice Cases And the Standard Of Care Related To Emergency Medical Care And Treatment
Presented to the Judiciary Committee
March 25, 2011

Senator Coleman, Representative Fox and members of the Judiciary Committee, my name is Matthew Katz, executive vice president of the Connecticut State Medical Society (CSMS). On behalf of our more than 7,000 physicians and physician-in-training members, as well as the thousands of physician specialists represented by the organizations listed above, thank you for the opportunity to present this testimony to you today in support of House Bill 6622 An Act Concerning The Burden Of Proof In Medical Malpractice Cases And the Standard Of Care Related To Emergency Medical Care And Treatment.

For over a quarter of a century, a federal law called the Emergency Medical Treatment and Active Labor Act (EMTALA) has ensured that every person has a RIGHT to emergency medical care in hospitals.. Physicians -- including those practicing emergency medicine, as well as other medical specialists, surgeons and even primary care physicians who provide medical care in emergency situations to stabilize a condition -- cannot chose the patients or services they provide. A significant portion of people requiring services covered by EMTALA lack the financial resources or health insurance to pay for those services and often fall into a high-risk category in which complications beyond the control of the physician may develop, causing both patient and physician considerable issue. The bill before you today moves us toward increased protection for physicians providing emergency services and will guarantee that patients in need of such services receive appropriate and high quality medical care.

Language before you today states that physicians providing services in emergency departments shall not be held liable unless, as appropriate, the physician demonstrated a "reckless disregard" for consequences. As defined, this would be a situation in which the physician knew or should have known that the treatment created an unreasonable risk of injury. We support this language. However, we ask that the proposed bill be amended to include ANY EMTALA-related service including those provided by physicians in settings other than an Emergency Department, as there are other settings where emergency care and treatment are provided.

In addition, we support language contained in Section 1(a)(2) stating that in medical liability cases a claimant "shall have the burden of proving clear and convincing evidence that the alleged actions of the health care provider represented a breach of the prevailing professional standard of care for that health care provider."

Thank you for the opportunity to present this testimony to you today. Please support House Bill 6622.